REMARKS

Claims 1-20 are pending in the application. Claims 1-6 have been withdrawn from consideration by the Office Action. Claims 1, 6, 7, 9 and 14 are amended. Additionally, the specification is amended to correct minor inconsistencies.

Applicant appreciates the courtesies shown to Applicant's representative by Examiner Dang in the May 6 personal interview. Applicant's separate record of the substance of the interview is incorporated into the following remarks.

In paragraph 1, on page 2 of the Office Action, restriction to one of Group I, claims 7-20 or Group II, claims 1-6, is required under 35 U.S.C. §121. Restriction requirement is respectfully traversed.

On February 27, 2003, a provisional election was made with traverse to prosecute the invention of Group I. Applicant affirms the election of Group I, with traverse.

It is respectfully submitted that the subject matter of all of claims 1-20 is sufficiently related that a thorough search for the subject matter of any one group of claims would encompass a search for the subject matter of the remaining claims. The Office Action alleges that the fields of search of Group I and Group II are not co-extensive and separate examination would be required. However, 18,460 patents have issued classified in both class 438 and class 257[1]. Furthermore, Examiner has, at least partially, already searched class 257 as evidenced by a listing of U.S. Patent 5,583,373 to Ball et al. in the Notice of References cited.

During the interview, the Examiner indicated that while some Examiners may not consider a search of both a method and device claim burdensome, he did. However, 149 of

[1] Result of an advanced search on the USPTO website for "CCL/(438/$) and CCL/257/$)."

the 18,460 patents classified in class 438 and 257 were examined by Examiner Dang[2] (see, e.g., U.S. Patent nos. 6,541,300, 6,528382 and 6,518,146, claiming both a device and method without a linking claim).

Thus, it is respectfully submitted that the search and examination of the entire application could be made without serious burden. See MPEP §803 in which it is stated that "if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinctive inventions" (emphasis added). It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicant and duplicative examination by the Patent Office. Therefore, it is respectfully requested that the restriction requirement be withdrawn and claims 1-6 be examined with claims 7-20.

The Office Action rejects claims 7-10, 12-17, and 19-20 under 35 U.S.C. §102(b) over U.S. Patent 5,510,276 to Diem et al. (hereinafter "Diem"). The rejection is respectfully traversed.

Diem does not teach or describe a "gap" in the insulation layer. A "gap" is commonly defined as "an opening in a solid structure or surface; a cleft or breach" or "a space between objects or points; an aperture". Both "opening" and "aperture" describe a void where at least a part remains open. Conversely, Diem describes vacuum spaces 16, 18 that are entirely sealed and cannot properly be termed "gaps". It is clear from the specification and drawings, that the term "gap" as used in claims 1, 7, and 14, is intended to describe a gap, aperture, or opening, i.e., a space that remains at least partially open. In order to make the previously intended structure abundantly clear, claims 1, 7, and 14 are amended to include the language

[2] Result of advanced search on USPTO website for "CCL/(438/$)and CCL/257/$) and EXP/(Dang-$) or EXA/Dang-$))."

"remains at least partially open". This language is supported throughout the specification, as no step of sealing one gap is described, and in Figures 2 and 7A.

Furthermore, Diem teaches away from the use of a partially open gap. Were the vacuum spaces 16, 18 to remain open, the device of Diem would be inoperable. The diaphragms would not properly deflect and the vacuum would be lost (column 9, lines 47-55).

Because Diem does not describe a "gap" that "remains at least partially open" or "forming " a "gap" that "remains at least partially open", it does not disclose the features recited in claims 1, 7, or 14. Further, it is respectfully submitted that claims 2-6, 8-13, and 15-20 are patentable at least in view of the patentability of claims 1, 7, and 14 from which they respectively depend, as well as for the additional features they recite. Therefore, it is respectfully requested that the rejection be withdrawn.

In paragraph 5, on page 4 of the Office Action, claims 11 and 18 are rejected under 35 U.S.C. §103(a) over Diem. The rejection is respectfully traversed.

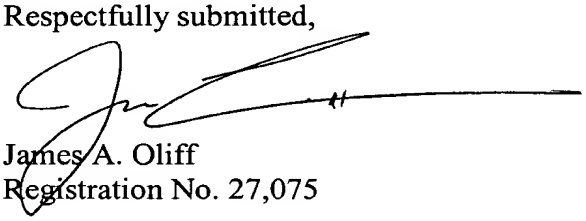
The rejection is premised upon a presumption that Diem teaches or describes each of the features of claims 7 and 14. Because, as described above, Diem does not teach or describe each of the features of claims 7 or 14, the logic of the rejection fails. Therefore, claims 11 and 18, respectively depending from claims 7 and 14, are not obvious in light of Diem under 35 U.S.C. §103(a). Therefore, it is respectfully requested that the rejection be withdrawn.

In paragraph 6, on page 5 of the Office Action, Fig. 1 is objected to for omitting a designation indicating that which is old is illustrated. The replacement of Fig. 1 is included in the Amendments to the Drawings and includes the designation "related art". Therefore, it is respectfully requested that the objection be withdrawn.

In view of the foregoing, Applicant submits that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1 - 20 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number set forth below.

Respectfully submitted,



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